## REMARKS/ARGUMENTS

Reconsideration and allowance of the above-identified application are respectfully requested. Upon entry of this Amendment, claims 1-43 will be pending.

In the office action, the Examiner rejected claims 18, 20-25, 27-28, 31-32, 35, 38-39 and 42 under 35 U.S.C. §112, first paragraph. The Examiner alleges that the term "digital picture" was not described in the specification. While applicants disagree with the Examiner's assessment, applicants have amended the subject claims to return to the "computer readable visual representation" language, to overcome the rejection. As discussed in the previous amendment, Applicants use of the term "digital picture" was intended to help distinguish the picture-like visual representation that is generated and analyzed in embodiments of the present invention, from the term "ballot image" used often in McClure and cited by the Examiner. As discussed at length in the previous amendment, the term "ballot image" discussed in McClure refers only to a data image, referring to stored vote data that is not in any way associated with a picture-like visual representation of the voted ballots. As will be discussed below, McClure does not teach or suggest generating and analyzing a computer readable visual representation of a voted ballot, as presently claimed. Since Applicants have amended the claims to remove the term "digital picture" and replace it with the previous term "computer readable visual representation" the rejection is believed to be overcome.

The Examiner has rejected claims 1-43 under 35 U.S.C. §102(e) as anticipated by U.S. Patent No. 6,250,548 to McClure. Applicants have canceled claims 1-17 without prejudice.

Referring to independent claims 18, 24 and 35, the Examiner maintains a rejection in view of McClure, despite agreement at the December 13, 2005 interview, that McClure does not perform the functions of embodiments of the invention, as demonstrated during the interview. More specifically, claims 18, 24 and 35 are amended to specify that it is markings made on a voted ballot, the markings indicating a voter's intent, that are analyzed to generate vote data. Referring to Fig. 4, the check marks and cross outs made on the voted ballot, and apparent on the visual representation of the voted ballot, are examples of "markings in said visual representations indicating a voter's intent". McClure, simply put, does not have this capability, and does not describe such functionality in any way. As previously discussed and argued, McClure at most suggests that absentee ballots are scanned. However, any vote data obtained from the scanned ballot it separated forever from the physically ballot, and any visual representation thereof temporarily made by the scanning device. In embodiments of the present invention, visual representations of the voted ballot are created, markings made on the ballot are then analyzed (e.g., the check marks apparent on the ballot shown in FIG. 4 of the present application), and vote data is generated based on the markings. The three elements are then associated with one another: the vote data, the visual representation of the ballot from which the vote data was extracted, and the physical paper ballot. The three elements are associated with one another based on a *unique ballot identification*. Thus, according to an embodiment of the present invention, a human being can retrieve a visual representation of a voted ballot, compare the visual representation of the ballot with the vote data extracted therefrom to verify that the data-extraction was accurate, and make corrections if necessary, as in the case when vote data was extracted *incorrectly* by

the maching doing the vote data extraction. As an example, the cross-outs shown in FIG. 4 may be interpreted by a machine as a vote for the corresponding candidate. A human being reviewing the visual representation can determine that the markings were meant to indicate that a vote for that candidate was not intended. Rather, the candidates receiving check marks were the candidates that the voter intended to vote for. Thanks to the three uniquely associated elements (physical ballot, visual representation thereof, and vote data extracted therefrom) such robust auditing and corrections are possible. Furthermore, because embodiments of the present invention associate the actual physical ballot with the same unique ballot identification as the vote data and the visual representation of the physical ballot, an auditing system in accordance with an embodiment of the present invention could include locating the actual physical ballot, to make sure it matches the visual representation of the ballot from which the vote data was extracted.
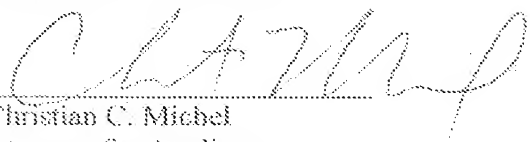
The Examiner argues that "scanning said plurality of voted ballots and generating a digital picture of each of said ballots" is taught at Col. 43, lines 37-59 of McClure. However, it is unclear what the Examiner means when he argues that in McClure "voter eligibility is validated by scanning the voter and the voter is assigned the specific ballot styles." This functionality has nothing to do with scanning a voted paper ballot to create a visual representation of the ballot. Further, the Examiner suggests that "analyzing marking indicating a voter's intent made on said plurality of voted ballots" is taught at Col. 32, lines 20-21 and 29-35 of McClure where "image of marks, positional information and encoded bar code are scanned and analyzed." However, at best McClure analyzes a scanned absentee ballot to obtain vote data and discards the visual representation of the ballot, storing *only the vote data and nothing else*. McClure does not

describe storing the visual representation of the voted ballot, along with the vote data extracted therefrom and a physical ballot, and *associating all three with one another using a unique ballot identification* to facilitate auditing as described above.

McClure simply does not teach or suggest scanning a plurality of voted ballots and generating computer readable visual representations of each of the ballots, analyzing markings in the visual representations indicating a voter's intent made on the plurality of voted ballots and generating vote data associated with each of said plurality of voted ballots based on the visual representations of the ballots, and associating each visual representation and the corresponding vote data with the physical voted ballot based on the unique ballot identification. Accordingly, claims 18, 24 and 35, and claims 19-23, 25-34 and 36-43 which depend therefrom should be allowed.

In view of the above, it is believed that the application is in condition for allowance and notice to this effect is respectfully requested. Should the Examiner have any questions, the Examiner is invited to contact the undersigned at the telephone number indicated below.

Respectfully Submitted,

Christian C. Michel
Attorney for Applicant

**Reg. No. 46,300**

Roylance, Abrams, Berdo & Goodman, L.L.P.
1300 19th Street, N.W., Suite 600
Washington, D.C. 20036
(202) 659-9076

Dated: _July 31_, 2006